

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

IN RE:

TYSON FOODS INC., CHICKEN RAISED
WITHOUT ANTIBIOTICS CONSUMER
LITIGATION

Case No. 1:08-md-01982-RDB

**DECLARATION OF A. J. De
BARTOLOMEO IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
OBJECTIONS AND FURTHER
REPORT ON REACTION OF THE
CLASS**

I, A. J. De BARTOLOMEO, declare as follows:

1. I am an attorney-at-law and a partner in the law firm of Girard Gibbs LLP, 601 California Street, 14th Floor, San Francisco, California 94108. I submit this declaration in support of Plaintiffs' Response to Objections and Further Report on Reaction of the Class.

2. I am an attorney in good standing and duly licensed and admitted to the California State Bar. The testimony set forth in this declaration is based on my first-hand knowledge and/or an examination of my firm's files and records maintained in the ordinary course of business.

3. Two untimely objections to the settlement in this action were submitted, one by Ruth Valencia (Dkt. No. 113) and one by Jill Hendle (Dkt. No. 114). I have made multiple efforts to contact Ms. Valencia and Ms. Hendle to explain the claim process and, if they wish to file claims, to assist them in doing so.

4. Ms. Hendle's submission did not include a telephone number. I contacted the Settlement Administrator to obtain any information Ms. Hendle had submitted, but that information did not include a telephone number. I attempted to locate Ms. Hendle's telephone

number using various directories, but the only published telephone number I was able to locate was disconnected. I sent a letter to Ms. Hendle on April 26, 2010 advising her of our efforts to contact her and encouraging her to contact our law firm by calling our toll-free telephone number. A true and correct copy of the letter I caused to be sent to Ms. Hendle is attached as **Exhibit A.**

5. Ms. Hendle called our office today, and I spoke with her. We discussed her submission regarding the settlement and I explained the three claim choices available to class members under the settlement. Ms. Hendle told me that she had not yet visited the www.ChickenSettlement.com website and that she was not aware she had the option to obtain a cash refund without proof of purchase. She said that she would visit the www.ChickenSettlement.com website to obtain further information and to submit a claim. After our discussion, Ms. Hendle told me that she understood the settlement structure and that she was satisfied with the claim options. We will remain in contact with Ms. Hendle to ensure that she timely files her claim.

6. Upon receipt of Ms. Valencia's objection, I contacted the Settlement Administrator to obtain any information Ms. Valencia had submitted. Ms. Valencia had submitted a letter to the Settlement Administrator that included her telephone number. Because her submission to the Court appears to convey Ms. Valencia's concern that her claim would not be timely filed, I called Ms. Valencia on April 26, 2010 to explain the claims process. I was unable to reach her, however, and I left a voicemail explaining the reason for my call, requesting a call back and providing our toll-free telephone number. Because Ms. Valencia did not return my call, I called her again on April 28. The telephone rang more than 20 times, but I was unable to reach either a person or voicemail. I will continue to attempt to reach Ms. Valencia.

7. Attached as **Exhibit B** is a true and correct copy of an Objection to Class Action Settlement and Notice of Intention to Appear filed on March 8, 2010 by Steve A. Miller in the litigation styled *In re Mattel, Inc., Toy Lead Paint Product Liability Litigation*, 07-ml-01897-DSF-AJW (C.D. Cal.).

8. Attached as **Exhibit C** is a true and correct copy of a Notice of Appeal filed on April 21, 2010 by Steve A. Miller in the litigation styled *In re Mattel, Inc., Toy Lead Paint Product Liability Litigation*., 07-ml-01897-DSF-AJW (C.D. Cal.).

9. Attached as **Exhibit D** is a true and correct copy of a page from the State Bar of Texas website identifying Thomas L. Cox, Jr. as a member of the Texas Bar.

10. Attached as **Exhibit E** is a true and correct copy of a page from the State Bar of Texas website identifying Gary W. Sibley as a member of the Texas Bar.

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Executed this 30th day of April, 2010, at San Francisco, California.

A. J. De Bartolomeo
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